



Notice of Appeal from the Examiner to the Board of Appeal and Interferences

Submitted in Response to Office Action dated 07/11/2006 (Final Rejection)

Date: October 10, 2006

Dear Sir:

Please find following detailed response:

Rejection of Record Set Forth in the Office Action Dated November 21, 2005

In this Office Action the Examiner have rejected claim 25 - 27 of my patent application number 09/944,564. Currently I am defending claim 25 that reads as follows:

25. (New) A pharmaceutical composition consisting essentially of glycoposphopeptical for oral administration for the treatment of allergy and asthma in dosage and duration which is effective to:

- i- Switch-off the airway eosinophilic inflammation.
- ii- Reduce mucus secretion.
- iii- Reduce symptom score significantly.
- iv- Restore airway patency as measured by Pulmonary Function Test.

The cause of rejection

From the above identified Office Action pages 3 - 4:

7. Claims 25-27 are rejected under 35 U. S. C. 102(b) as being anticipated by Sanchez Palacios A. et. al. Allergol Immunopathos (Madr) (1992), Vol 20 (1), pages 35-39 (Sanchez).

Sanchez discloses the use of Immunoferon (AM3) in the treatment of childhood infectious respiratory pathology. To assess the immunoclinical effectiveness of a biologic response immunomodulator, glycoposphopeptide (AM3) was administered to 20 children with asthmatic bronchitis. The children received 2 envelopes (1gm) daily for 4 months. The clinical and immunological parameters assessed were: cough, dyspnoea, expectoration, frequency and intensity of bronchospasm, time of administration of the symptomatic medication, and the delayed cutaneous cells response by means of the intradermal reaction of 5 antigens: Immunoferon reduced the symptoms, the intensity and frequency of the bronchospasm, and the symptomatic medication.

8. Applicant's argument filed April 12, 2006 has been fully considered but they are not persuasive. Applicant's argue that Sanchez is referring to infectious respiratory pathology (asthmatic bronchitis) which is not bronchial asthma which is allergic or atopic.

Applicant's arguments have been considered but are not deemed germane. Sanchez teaches the use of glycoposphopeptide for treating asthmatic bronchitis. It was well known in the art at the time of the invention that asthmatic bronchitis is a condition in which the airways in the lung are obstructed due to both persistent asthma and bronchitis. Thus, the patient population treated by the method of Sanchez embraces asthma patients and therefore meets the limitation of the instantly claimed invention.